

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN DAVID RICHARDS, H-10315,	)	
	)	
Petitioner,	)	No. C 11-0867 CRB (PR)
	)	
vs.	)	ORDER OF DISMISSAL
	)	
STATE OF CALIFORNIA,	)	(Docket # 2)
	)	
Respondent.	)	
	)	

I.

Petitioner, a prisoner at Pelican Bay State Prison (PBSP), has filed a pro se petition for writ of habeas corpus under 28 U.S.C. § 2254 challenging a \$5,000 restitution fine entered by the Santa Clara County Superior Court in September 1991 as part of his 18 year to life sentence for second degree murder with a deadly weapon. Petitioner also moves for leave to proceed in forma pauperis under 28 U.S.C. § 1915 (docket # 2), which, good cause shown, is granted.

II.

This court may entertain a petition for a writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a).

Section 2254(a) uses the term "in custody" twice, with two different requirements. Bailey v. Hill, 599 F.3d 976, 978 (9th Cir. 2010). The first usage (i.e., that the petition be filed "in behalf of a person in custody") requires that

### III.

2